

Kenneth Louis
Clerk of the City of Newark
920 Broad Street, Room 415A
Newark, New Jersey 07102

Samora F. Noguera, Esq.
Counsel
nogueras@ci.newark.nj.us
Dir: (973) 733-5354

September 29, 2019

VIA EMAIL TO: 80526-32097019@requests.muckrock.com

RE: OPRA Request- PD-19-1013 (DEN)

Dear Requestor:

The Office of the Clerk of the City of Newark has received the following OPRA request from you:

Records describing, authorizing, or mentioning expenses or personnel assignment in response to or accommodation of visits from officials in the federal government between January 1, 2001 and the present.

The Office of the Clerk **must deny** your request for “personnel assignment [sic] in response to or accommodation of visits from officials in the federal government” because you have requested personnel records. The statute is clear: “The personnel or pension records of any individual in the possession of a public agency, including but not limited to records relating to any grievance filed by or against an individual, shall not be considered a government record and shall not be made available for public access, except that:

- a. An individual's name, title, position, salary, payroll record, length of service, date of separation and the reason therefor, and the amount and type of any pension received shall be a government record;
- b. Personnel or pension records of any individual shall be accessible when required to be disclosed by another law, when disclosure is essential to the performance of official

- duties of a person duly authorized by this State or the United States, or when authorized by an individual in interest; and
- c. Data contained in information which disclose conformity with specific experiential, educational or medical qualifications for government employment or for receipt of a public pension, but not including any detailed medical or psychological information, shall be a government record. N.J.S.A. 47:1A-10.

“The legislative intent embodied in the general exemption of personnel files from disclosure- [is] one that aims to protect personal information disclosed to government agencies when such agencies are operating under the mantle of employer.” North Jersey Media Grp., Inc. v. Bergen Cnty. Prosecutor’s Office, 405 N.J. Super. 386, 387 (App. Div. 2009). Your request for personnel assignment requests must be denied on its face because it seeks a personnel record.

Your request for “records describing, authorizing, or mentioning expenses...in response to or accommodation to visits” would require the custodian to perform research and therefore must be denied. A custodian is not required to conduct research among its records and correlate data from various government records in the custodian’s possession. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546-547 (App. Div. 2005). Fulfilling your request would require the custodian to know the dates and times of visits “from officials in the federal government between January 1, 2001 and the present” and then determine what possible documents would reflect the expenses. As this requests would require research in contravention of the statute, the Clerk must deny your request.

Very Truly Yours,

s/ Samora F. Noguera
Samora F. Noguera